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EXAMINER
NGUYEN, MINH DIEU T

ART UNIT	PAPER NUMBER
2137	

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/649,185

Applicant(s)

MAIN, JAMES DAVID

Examiner

Minh Dieu Nguyen

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-122 is/are pending in the application.
- 4a) Of the above claim(s) 9-13, 15, 28-31, 49-53 and 67-122 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 14, 16-27, 32-48 and 54-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to the communication dated 7/2/2007 with the election of group I, claims 1-77. Upon further review, there is species restriction on group I, as followed.

#### *Election/Restrictions*

2. Restriction to one of the following inventions is required under 35 U.S.C.

121:

Group I (claims 1-77) contains claims directed to the following patentably distinct species:

Species 1: claims 6-8, 17-24, 46-48 and 55-59.

Species 2: claims 9-13 and 49-53.

Species 3: claims 15, 28-31 and 67-77.

The species are independent or distinct because species 1 has separate utility such as having information pertaining to asset position, species 2 has separate utility such as having information pertaining to asset status and species 3 has separate utility such as having a parser and switching unit. They are not obvious variants and they have a materially different design, mode of operation or function.

3. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no

Art Unit: 2137

generic claim is finally held to be allowable. Currently, claims 1-5, 14, 16, 25-27, 32-45, 54 and 60-66 are generic.

4. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.

An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

5. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. During a telephone conversation with Kent Fischmann on 8/7 a provisional election was made without traverse to prosecute species 1: claims 6-8, 17-24, 46-48 and 55-59.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-13, 15, 28-31, 49-53 and 67-77 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Objections***

7. Claims 1, 7 and 39 are objected to because of the following informalities:

Art Unit: 2137

a) As to claim 1, the phrase "maintain a communications connection" should be "maintain a communication connection", "before the set period of time expires" should be "before the **first** set period of time expires".

b) As to claim 7, the phrase "LORAN position, street address" should be "LORAN position, **or** street address".

c) As to claim 39, the phrase "in communication to the cellular network" should be "in communication to the **wireless** network".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-5, 14, 16, 25-26, 32, 37-45, 54 and 60-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Eftis et al. (7,171,473).

a) As to claim 1, Eftis discloses a method to maintain a communication connection through a firewall in a network used for pushing information to and receiving information from a mobile device (Eftis: col. 4, lines 1-4) comprising: sending a first heartbeat signal between the mobile device and

Art Unit: 2137

an asset server (Eftis: col. 9, lines 1-3); receiving the first heartbeat signal at the firewall (Eftis: Fig. 1, element 16); opening a hole in the firewall to allow communication between the mobile device and the asset server (Eftis: col. 10, lines 62-67); holding the hole open for a first set period of time (Eftis: col. 9, lines 21-25; col. 10, lines 40-44); and sending a successive communication before the first set period of time expires, wherein the successive communication causes the firewall to leave the hole open for a second set period of time (Eftis: col. 11, lines 16-28).

b) As to claims 2 and 41, Eftis discloses the method of claim 1, wherein the network is a wireless network (i.e. wireless network is inherently understood since it relates to wireless phone, Eftis: Fig. 1, element 18).

c) As to claims 3 and 42, Eftis discloses the method of claim 1, wherein the network is a packet-switched network (i.e. the Internet, Eftis: col. 6, lines 17-20).

d) As to claims 4 and 45, Eftis discloses the method of claim 1, wherein the successive communication is information the mobile device sends to the asset server through the hole (Eftis: col. 11, lines 18-19).

e) As to claims 5, 16, 43 and 44, Eftis discloses the method of claim 5, wherein the mobile device is part of an asset in an asset tracking system (Eftis: col. 12, lines 53-58).

f) As to claims 14 and 54, Eftis discloses the method of claim 1, wherein the successive communication is information the mobile device receives from the asset server through the hole (Eftis: col. 7, lines 21-26).

Art Unit: 2137

g) As to claims 25-26 and 60-61, Eftis discloses the method of claim 1, wherein the successive communication is a successive heartbeat and the heartbeat signal is specific to the mobile device that originates the heartbeat (Eftis: col. 11, lines 16-34).

h) As to claims 32 and 40, Eftis discloses the method of claim 1, wherein the mobile device is a cellular device (Eftis: Fig. 1, element 18).

i) As to claim 37, Eftis discloses the method of claim 1, wherein a first heartbeat includes a dynamic IP address for the mobile device (Eftis: col. 3, lines 37-46; col. 9, lines 1-19).

j) As to claim 38, Eftis discloses the method of claim 1, wherein the asset server record the dynamic IP address to communicate with the mobile device in the future (Eftis: col. 6, lines 61-63).

k) As to claim 39, this claim is directed to a hardware implementation of the method of claim 1 and is rejected by a similar rationale applied against claim 1.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2137

11. Claims 6-8, 17-24, 33-36, 46-48, 55-59 and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eftis et al. (7,171,473) in view of Fuchs et al. (6,453,237).

a) As to claims 6-8 and 46-48, Eftis discloses the method of claim 5, however it is silent on the capability of having the sent information pertains to an asset position, wherein the asset position is information about one of GPS coordinates, directions, speed, LORAN position or street address, and wherein the GPS coordinates are provided by a GPS receiver communicatively coupled to the mobile device.

Fuchs is relied on for the teaching of having the sent information pertains to an asset position, wherein the asset position is information about one of GPS coordinates, directions, speed, LORAN position or street address, and wherein the GPS coordinates are provided by a GPS receiver communicatively coupled to the mobile device (Fuchs: col. 3, lines 61-63; col. 4, lines 60-63; col. 5, lines 30-32).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having the sent information pertains to an asset position, wherein the asset position is information about one of GPS coordinates, directions, speed, LORAN position or street address, and wherein the GPS coordinates are provided by a GPS receiver communicatively coupled to the mobile device in the system of Eftis, as Fuchs teaches, so as to effectively locate assets in the broad coverage area (Fuchs: col. 1, lines 14-19).



Art Unit: 2137

b) As to claims 17 and 55, Eftis discloses the method of claim 16, however it is silent on the capability of having the received information pertain to at least one other asset in the asset tracking system.

Fuchs is relied on for the teaching of having the received information pertain to at least one other asset in the asset tracking system (i.e. tracking children, the elderly, etc., Fuchs: col. 1, lines 21-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having the received information pertain to at least one other asset in the asset tracking system in the system of Eftis, as Fuchs teaches, so as to locate objects over a large geographic region (Fuchs: col. 1, lines 14-19).

c) As to claims 18-19 and 56-57, Fuchs discloses the received information pertain to a position to which the asset should proceed and wherein the received information includes real-time information (i.e. real-time directions Fuchs: col. 22, lines 6-9).

d) As to claims 20-24 and 58-59, Fuchs discloses the real-time information is about a status of a location at the position; the real-time information includes one of blueprints, occupancy, items stored at the location, a history of the location, or a history of occupants at the location; the real-time information is about one of a traffic condition, a light signal, a traffic accident, a best route, or a parking condition; the real-time information is imagery of the position and the imagery includes satellite imagery (Fuchs: col. 24, line 53 to col. 25, line 2).

Art Unit: 2137

e) As to claims 33-36 and 63-66, Fuchs discloses the cellular device sends and receives digital signal, the cellular device includes a digital modem to send data to and receive data from the cellular network (Fuchs: col. 8, lines 27-29; col. 23, lines 16-18; col. 21, line 65 to col. 22, line 4), the cellular device multiplexes a plurality of data streams into an out-going data stream and the plurality of data streams includes one of voice data, asset position data, asset status data, the heartbeat or mobile device identifier (Fuchs: col. 8, lines 10-12; col. 6, lines 48-51).

12. Claims 27 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eftis et al. (7,171,473) in view of Inoue (5,805,999).

Eftis discloses the method of claim 26, however it is silent on the capability of having the digital signal includes at least one bit that identifies the mobile device.

Inoue is relied on for the teaching of having the digital signal includes at least one bit that identifies the mobile device (Inoue: Fig. 2B, element 224).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having the digital signal includes at least one bit that identifies the mobile device in the system of Eftis, as Inoue teaches, so as to easily to identify and locate the called device.


Art Unit: 2137

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
mdn  
8/15/07